



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

November 21, 2022

By ECF

Honorable J. Paul Oetken
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *United States v. Brian Benjamin* , S2 21 Cr. 706 (JPO)

Dear Judge Oetken:

The Government writes to correct an inadvertent factual error in its November 17, 2022 letter. (Dkt No. 71, hereinafter the “Letter”). In the Letter, the Government stated that the Non-Relevance Set, which contained an estimated 87,000 documents, was comprised of a far smaller universe of unique documents as a result of duplication of emails across the email addresses in the MigdolNYC Emails universe. (Letter at 3). Because the case team does not have access to the Non-Relevance Set, this representation was based on information that the filter team provided to the case team about how the Non-Relevance Set was processed. However, that representation was mistaken. The case team learned for the first time today that the Non-Relevance Set was de-duped by the Government’s data processor when it was loaded into a document review platform.

Specifically, in an effort to expedite the review and release to the defense of non-privileged documents in the Non-Relevance Set, a member of the case team spoke today with the person in the Office responsible for liaising with the Government’s document review and production vendor to discuss implementing and documenting the de-duplication.¹ On this phone call, the case team learned for the first time that de-duplication of the MigdolNYC Emails (including the Non-Relevance Set) had, in fact, already been performed. Accordingly, the filter team was incorrect in their belief that the Non-Relevance Set contained a far smaller universe of unique documents, and thus the Government’s representation of that fact likewise was incorrect.

¹ This individual was on leave when the Government filed the Letter and was not available to speak with the case team until today.

Nevertheless, for the reasons set forth in the Letter and in light of the search terms used to define the Relevance Set, it remains the case that the Government has no reason to believe there is anything of significance in the non-privileged Non-Relevance Set not already disclosed in substance through the non-privileged Relevance Set. Furthermore, the Government remains committed, so far as it is in our control, to providing the defense with the non-privileged Non-Relevance Set as expeditiously as possible.

Respectfully submitted,

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By: /s/

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cc: Counsel of Record (via ECF)